



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/709,195

04/20/2004

John Fox

3194

40501

7590

06/25/2008

JOHN FOX
3902 Q STREET
OMAHA, NE 68107

EXAMINER

HALL, ARTHUR O

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/709,195	Applicant(s) FOX, JOHN	
	Examiner ARTHUR O. HALL	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 0208.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Examiner acknowledges applicant's amendment of claims 1-3, 5-6, 8 and 10-11, in the Response dated 4/10/2008 directed to the Non-final Office Action dated 1/14/2008. Claims 1-11 are pending in the application and subject to examination as part of this office action.

Examiner acknowledges that applicant's Response dated 4/10/2008 directed to the rejection set forth under 35 U.S.C. 102(e) and 35 U.S.C. 103(a) in the Non-final Office Action dated 1/14/2008. However, Examiner has searched the prosecution history and found no arguments filed in the Response dated 4/10/2008. Thus, the rejections under 35 U.S.C. 102(e) and 35 U.S.C. 103(a) are not withdrawn in light of the evidence disclosed in the Weiss (US Patent 6,609,973; hereinafter Weiss), Mead (US Patent Application Publication 2005/0049036) and Odom (US Patent 6,581,935) references cited in the Non-final Office Action dated 1/14/2008 in view of applicant's amendments made in the Response dated 4/10/2008 directed to the Non-final Office Action dated 1/14/2008. Therefore, Examiner maintains the grounds of rejection under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) as set forth below.

Examiner acknowledges that applicant's have not provided a new corrected oath and declaration nor responded to Examiners statement of improper oath and declaration as set forth in the Non-final Office Action dated 1/14/2008. Hence, applicant has not obviated the improper execution of the oath and declaration. Therefore,

Examiner maintains the grounds of improper execution of the oath and declaration lacking accordance with either 37 CFR 1.66 or 1.68 as set forth below.

Examiner acknowledges applicant's submission of the substitute specification directed to Examiners objection of the specification as set forth in the Non-final Office Action dated 1/14/2008, which obviate the objection to the specification. Therefore, Examiner withdraws further objection to the specification. However, Examiner notes to the applicant that there is no requirement to describe sections in the specification that are not applicable since the absence of description presumes that there does not exist any applicable description.

Examiner acknowledges applicant's amendments of the drawings directed to Examiners objection of the drawings with respect to Figures 1-6 as set forth in the Non-final Office Action dated 1/14/2008, which obviate the objection to the drawings. Therefore, Examiner withdraws further objection to the drawings.

Examiner acknowledges applicant's amendments directed to Examiners objection of claims 1-2, 6, 8 and 11 set forth in the Non-final Office Action dated 1/14/2008, which obviate the objection to the claims. Therefore, Examiner withdraws further objection to the claims.

Examiner acknowledges applicants arguments and amendments of claims 2, 5 and 10-11 to resolve indefiniteness of the claims, which obviate the rejections under 35 U.S.C. 112, second paragraph described in the Non-final office action dated 1/14/2008. Therefore, Examiner withdraws further rejection under 35 U.S.C. 112, second paragraph. However, Examiner finds that applicant's amendment to claim 5 causes Examiner to set forth a new ground of rejection under 35 U.S.C. 112, second paragraph necessitated by amendment as set forth below.

Oath/Declaration

It was not executed in accordance with either 37 CFR 1.66 or 1.68.

Examiner finds that the oath and declaration is not properly executed with a proper electronic signature. Examiner suggests that applicant review the MPEP Part I – Rules of Practice in Patent Cases and place the oath and declaration into compliance with 37 CFR 1.4(d)(3).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6-8 recite the limitation "The method of claim 5" in about lines 4, 7 and 9, respectively, of the amended claims dated of the specification. However, claim 5 is an apparatus claim, not a method claim. Thus, the limitation is unclear. Examiner interprets

the claim limitation as "The device of claim 5" for the purpose of examination since the substantive nature of the claim is an apparatus. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

Examiner maintains and incorporates herein the grounds of rejection of the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) as described in the Non-final Office Action dated 1/14/2008 because the scope of the claims as amended in the Response dated 4/10/2008 is within the scope of the claims examined in the Non-final Office Action dated 1/14/2008 and because each of the features of applicants claimed invention as amended continues to be anticipated by and unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Weiss (US Patent 6,609,973).

Regarding claim 1, Weiss teaches
a game card for playing a game of chance (Fig. 3, Weiss; a bingo game card is shown), the game card comprises:

a matrix of five rows and five columns defining twenty five grid squares adapted for playing the game of bingo, the matrix consisting of a grid known as a bingo card (column 3, lines 16-25 and Fig. 3, 20 and 21, Weiss; a 5 row by 5 column matrix inherently has 25 grid squares as shown and is a bingo card that is used for the purpose of playing bingo).

Claim Rejections - 35 USC § 103

Examiner maintains and incorporates herein the grounds of rejection of the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) as described in the Non-final Office Action dated 1/14/2008 because the scope of the claims as amended in the Response dated 4/10/2008 is within the scope of the claims examined in the Non-final Office Action dated 1/14/2008 and because each of the features of applicants claimed invention as amended continues to be anticipated by and unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss in view of Mead (US Patent Application Publication 2005/0049036), and even further in view of Odom (US Patent 6,581,935). Features are described by figures with reference characters where necessary for clarity.

At the outset, Examiner interprets applicants claim 2 to merely perform multiplication and summation operations on position values that are matched since the claim language only multiplies and totals matching position values.

Regarding claim 2, Weiss teaches

a method for gaming (column 3, lines 16-25, Weiss; the process of playing a game of bingo is performed on a bingo card), the steps comprise:
receiving a wager to enable the gaming device (column 2, lines 62-64, Weiss),
enabling a primary display (column 2, lines 55-59, Weiss),
displaying randomly selected first indicia within a row-and-column matrix (column 3, lines 33-35 and Fig. 3, 20, Weiss; random-numbered positions are displayed),
displaying randomly generated second indicia to be compared to said first indicia (column 3, lines 37-44 and Fig. 3, 22, Weiss; random-generated numbers or balls are displayed), and
leading to a bonus multiplier event (column 3, lines 48-53, Weiss; a bonus event is triggered in which a bonus amount will be multiplied),
wherein when said randomly generated second indicia match any of the first indicia in any positions on said matrix, the matching position values are multiplied and totaled, resulting in a bonus multiplier total (column 3, lines 44-47 and lines 59-65, Weiss; if the random-generated numbers or balls match the random-numbered positions, the randomly-generated bonus amount of the matched positions are totaled and multiplied).

However, Weiss does not substantially teach pre-assigned multiplier values at each position as claimed. Therefore, attention is directed to Mead, which teaches that the pre-assignment of multiplier values to each position within the row-and-column

matrix (paragraph 0066, Mead; a multiplier or modifier is assigned for each location on the grid).

Mead suggests that a device that enables a player to choose different risk based on various alternatives and weigh their options and choose their consequences in selecting their options as well as explore the consequences of selecting their options will provide more excitement and enjoyment to the player in the game (paragraph 0006, Mead).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Weiss in view of the teachings of Mead for the purpose of providing the gaming device of Weiss having two sets of randomly generated number features being matched that are interchangeable with or upgradeable to the pre-defined or pre-assigned multiplier or modifier feature of Mead in order to create excitement and enthusiasm for the player by enabling the player to choose values based on their risk that lead to different consequences in the game that result from assessment of multipliers.

However, Weiss alone or in combination with Mead does not substantially teach pre-assigned multiplier values at each position as claimed. Therefore, attention is directed to Odom, which teaches that the bonus multiplier total is applied in a second comparison to a predefined corresponding pay table or award card of winning bonus multiplier total amounts, and credits are awarded if a winning outcome is attained (column 4, lines 24-41, Odom; upon comparison of a set of indicia with a pattern of

another set of indicia, which is a different comparison or matching from the matching disclosed in Weiss, the outcome based on the predetermined pay table produces an award or credit for the player).

Odom suggests that a device that provides the player with a way to wager an amount based on predetermined amounts in the game for plural chances of winning will make it feasible for a single player to play a bingo game with large and progressive jackpot awards (column 1, lines 30-42 and lines 57-60, Odom).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Weiss in view of the teachings of Mead, and further in view of the teachings of Odom for the purpose of exchanging the interchangeable or upgradeable plural, matched randomly generated number sets and predetermined multiplier or modifier features of Weiss alone or in combination with Mead with the award feature based on a predetermined payable disclosed by Odom in order to make it feasible for a single player to play a progressive bingo game based on amounts wagered.

Regarding claims 3, 5 and 9-10, Weiss teaches

Regarding claim 3, bonus multiplier values are assigned to each spot within the row-and-column matrix (column 3, lines 46-47, Weiss).

Regarding claim 5, the randomly numbered grid is configured as a 5 by 5 matrix (column 3, lines 16-25, Weiss).

Regarding claim 9, credits are awarded by a plurality of levels of progressive awards, wherein each award level is dependent on the success of a plurality of players simultaneously (column 4, lines 4-12, Weiss).

Regarding claim 10, the second indicia are embodied as bingo balls (column 3, lines 37-44, Weiss).

The claimed features of claims 8 and 11 do not appear to be disclosed in Weiss; therefore, attention is directed to Mead, which teaches

Regarding claim 8, the center position of the matrix is pre-assigned a random multiplier bonus adjustment value to be used in said awarding of credits (paragraph 0066, Mead), wherein

A. The multiplier value remains fixed (paragraph 0066 and Fig. 3A, 138, Mead; the multiplier or modifier or ranking is a fixed value); and

B. The multiplier value changes through an external stimuli (paragraph 0063-0064 and Fig. 3A, 138, Mead; the multiplier or modifier or ranking changes based on probability).

Regarding claim 11, a multiplier value is assigned to each individual column starting with the "B" row and ending with the "O" row, where each lettered grid square may contain a selected multiplier that would result in a winning (paragraph 0066, Mead; a multiplier value is assigned to each position of the matrix and it would have been obvious at the time of invention to try an implementation using a bingo card row and column grid since Weiss discloses the bingo matrix having a grid), wherein

A. The multiplier value remains fixed (paragraph 0066 and Fig. 3A, 138, Mead; the multiplier or modifier or ranking is a fixed value); and

B. The multiplier value changes through an external stimuli (paragraph 0063-0064 and Fig. 3A, 138, Mead; the multiplier or modifier or ranking changes based on probability).

The claimed features of claims 4 and 6-7 do not appear to be disclosed in Weiss alone or in combination with Mead; therefore, attention is directed to Odom, which teaches

Regarding claim 4, bonus multiplier totals are correlated to a pre-assigned award to be used in said awarding of credits (column 4, lines 24-41, Odom; the outcome is associated with a predetermined or pre-assigned award based on a pay table and it would have been obvious at the time of invention to try an implementation in which the outcome is a bonus multiplier total since the bonus multiplier total is disclosed in Weiss so as to applied in a different comparison or matching).

Regarding claim 6, the center position of said matrix is not assigned as a random number while always considering it, **or in other words**, the center position to be a matching position (column 3, lines 49-51, Odom).

Regarding claim 7, the center position of said matrix is assigned a numbered position (column 3, lines 39-43, Odom).

Response to Arguments

Applicant's arguments filed in the Response dated 4/10/2008 directed to the Examiners' rejection under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) have been

considered fully and are unpersuasive in light of the evidence disclosed in the Weiss, Mead and Odom references and in view of applicants amendments.

Consequently, applicant's lack of arguments have not obviated Examiner's grounds of rejection under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) in light of the evidence disclosed in the Weiss reference, but also with respect to the Mead and Odom references and in light of applicants amendments. Hence, Examiner maintains the grounds of rejection of the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) as described in the Non-final Office Action dated 1/14/2008 because each of the features of applicants claimed invention continues to be anticipated by and unpatentable or obvious over the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A US-4,332,389, Loyd, Jr et al.

B US-5,401,024, Simunek

C US-7,179,167 B2, deKeller

D US-6,416,408 B2, Tracy et al.

E US-5,813,911, Margolin

F US-6,311,976 B1, Yoseloff et al.

G US-6,869,360 B2, Marks et al.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ARTHUR O. HALL** whose telephone number is (571)270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. O. H./
Examiner, Art Unit 3714

/Scott E. Jones/
Primary Examiner, Art Unit 3714